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McGinn & Gibb, PLLC
Suite 200
8321 Old Courthouse Road
Vienna, VA 22182-3817

In re Application of
Kenichi Satou
Application No. 10/091,470
Filed: March 7, 2002
For: BUMPER STRUCTURE

:
:
DECISION ON PETITION
:
TO WITHDRAW THE
:
HOLDING OF ABANDONMENT
:

This is a decision on the applicant's renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on August 28, 2003. The delay in treating this petition is sincerely regretted.

The petition is **GRANTED**.

A review of the file record reveals that an Office action was mailed to applicant on October 30, 2002. Since a response was not received before the expiration of the six month statutory period for reply, the application was held abandoned and a Notice of that affect was mailed on July 28, 2003.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

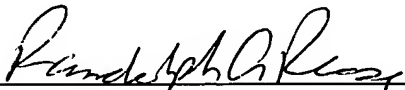
- (1) A statement from the practitioner stating the Office communication was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and
- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of January 30, 2003. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993).

Applicant's renewed petition submits a statement that the applicant did not receive the above-noted Office action. Applicant also attests to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record showing all actions due by the firm of McGinn & Gibb, PLLC at and around the due date of January 30, 2003 has been supplied.. This evidence is acceptable proof of non-receipt as provided by 1156 OG 53.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions withdraw the abandonment, return the application to pending status and to redate and remail the Office action of October 30, 2002 based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

Telephone inquiries relative to this decision should be directed to me at the number below.



Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/cps 4/28/04